

**UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF NORTH CAROLINA**

FEDERAL TRADE COMMISSION,
STATE OF CALIFORNIA,
STATE OF COLORADO,
STATE OF ILLINOIS,
STATE OF INDIANA,
STATE OF IOWA,
STATE OF MINNESOTA,
STATE OF NEBRASKA,
STATE OF OREGON,
STATE OF TEXAS,
and
STATE OF WISCONSIN,

Plaintiffs,

v.

SYNGENTA CROP PROTECTION AG,
SYNGENTA CORPORATION,
SYNGENTA CROP PROTECTION, LLC,

and

CORTEVA, INC.,

Defendants.

Case No. [22-cv-828]

**PLAINTIFF STATES' MOTION
FOR LEAVE TO ENTER NOTICES
OF SPECIAL APPEARANCE
WITHOUT ASSOCIATION OF
LOCAL COUNSEL**

1. Pursuant to LR 83.1(d), Plaintiff States collectively move for leave to enter notices of special appearance in this Court without association of local counsel in light of the special circumstances of this case. If the motion is granted, Plaintiff States' counsel will register as filing users with the Court's CM/ECF system, enter Notices of Special Appearance, and pay the Court's required appearance fee.

2. Plaintiff States conferred with Defendants on this matter. The Defendants take no position and do not intent to submit any response to the Plaintiff States' motion.

3. Plaintiff the Federal Trade Commission assents to Plaintiff States requested relief.

I. BACKGROUND

4. Plaintiff States, in conjunction with the Federal Trade Commission ("FTC"), have filed a complaint petitioning the Court pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b); Section 16 of the Clayton Act, 15 U.S.C. § 26; and applicable state laws to enter permanent injunctions, other equitable relief, and monetary relief against Defendants to undo and prevent their unlawful conduct in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a); Section 3 of the Clayton Act, 15 U.S.C. § 14; Sections 1 and 2 of the Sherman Act, 15 U.S.C. §§ 1, 2; and state competition and consumer protection laws.

II. ARGUMENT

5. LR 83.1(d) states that "[a]ttorneys who are members in good standing of the bar of the highest court of any state or the District of Columbia may practice in this

Court for a particular case in association with a member of the bar of this Court. To appear by special appearance, an attorney shall associate with a member of the bar of this Court, shall register as a filing user with the Court's CM/ECF system, shall enter a Notice of Special Appearance, and shall pay any appearance fee required by the Court. See LR 5.3(c)(1). No motion is required.”

6. Plaintiff States respectfully request that the Court waive the requirement that they obtain and associate with local counsel. Good cause justifies that request.

7. As the local rules reflect, the purpose of the local-counsel requirement is to ensure that there is an attorney “responsible to this Court for the conduct of the litigation” who is (a) familiar with the applicable rules, (b) responsible to the Court in the event of any disciplinary proceeding, and (c) present for all pretrial conferences, dispositive proceedings, and trial. LR 83.1(d)(2).

8. Plaintiff States and their counsel hereby certify to the Court that they will meet these standards. In support of the narrow, case specific request stated here in, Plaintiff States will work with and assist the FTC, which will coordinate and lead this litigation through experienced trial counsel.

9. In addition, by entering a Notice of Special Appearance under LR 83.1(d), counsel for each Plaintiff State agrees that:

“(i) the attorney will be responsible for ensuring the presence of an attorney who is familiar with the case and has authority to control the litigation at all conferences, hearings, trials and other proceedings; and that

(ii) the attorney submits to the disciplinary jurisdiction of the Court for any misconduct in connection with the litigation for which the attorney is

specially appearing.”

10. Because Plaintiff States’ counsel will enter Notices of Special Appearance and will register as filing users with the Court’s CM/ECF system, they will all receive electronic notice of all docket entries. To the extent there is additional need for coordination of or communication to the Plaintiff States, the States can further designate lead counsel for the Plaintiff States who could address that need, and who could be present during pretrial conferences, potentially dispositive proceedings, and trial.

11. The attorneys representing the Plaintiff States are fully familiar with the Federal Rules of Civil Procedure, have taken the necessary time to familiarize themselves with local procedural rules and case law, and will seek procedural advice from the FTC or in-district attorneys where appropriate. They are in good standing in all jurisdictions in which they are admitted, submit themselves to the Court’s jurisdiction and control, and pledge to demonstrate the judicious and careful practice that the Court properly expects.

12. Plaintiff States are resource constrained public entities. Retention of local counsel solely for Plaintiff States would work to create a unique financial burden that would not be shared by our FTC co-Plaintiffs. Because the Plaintiff States will be litigating this matter alongside experienced FTC counsel, Plaintiff States commit to cooperating with all noticed FTC attorneys in supporting consistent application of the Civil Local Rules and all applicable Orders of this Court.

13. There is thus no reason to require Plaintiff States to obtain local counsel, given that the States and their counsel certify that they will abide by all applicable rules

while practicing in this Court. Indeed, LR 83.1(c) already exempts “[f]ederal government attorneys representing the interests of the United States” from the local-counsel requirement. LR 83.1(c)(1). Plaintiff States simply seek the same treatment here.

III. CONCLUSION

14. For the reasons set forth above, the Plaintiff States request that the Court permit Plaintiff States to enter Notices of Special Appearance without association of local counsel. A proposed form of Order is submitted with this application.

Dated: October 12, 2022

Respectfully submitted,

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STATE OF CALIFORNIA, STATE OF
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Defendants.

Case No. 22-cv-828

**[PROPOSED] ORDER GRANTING
MOTION FOR LEAVE TO ENTER
NOTICES OF SPECIAL
APPEARANCE WITHOUT
ASSOCIATION OF LOCAL
COUNSEL**

CERTIFICATE OF SERVICE

I hereby certify that on October 12, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and have verified that such filing was sent electronically using the CM/ECF system, and I hereby certify that the document will be sent to the following non-CM/ECF participants as indicated:

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